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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,672	08/31/2001	Victor E. Vandell	P 0282906	7805
909	7590	05/26/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			LAMM, MARINA	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

1616

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,672

Applicant(s)

VANDELL, VICTOR E.

Examiner

Marina Lamm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgment is made of the amendment filed 3/9/05. Claims pending are 1-25. Claims 1-3, 5-22 and 24 have been amended. Claim 25 is new.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Mann (US 6,030,948), supplied by the Applicant.

Mann teaches a method of treating alopecia of the scalp comprising applying a topical anesthetic compositions to the scalp before applying an acid peel solution in order to diminish the discomfort of the acid peel solution. See Abstract; col. 3, lines 1-10; col. 12, lines 36-45.

Thus, Mann teaches each and every limitation of Claim 20.

3. Claims 20 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakayama et al. (US 4,054,954).

Nakayama et al. teach a method of implanting synthetic fibers beneath the scalp comprising (1) cleaning scalp; (2) applying a local anesthetic such as Novocain or Xylocaine to the scalp and permitting to anesthetize the skin layers in the area where the treatment to be performed; (3) performing implantation of synthetic fibers; and (4) rinsing the area of the scalp with warm water. See col. 2, lines 56-66; col. 4, lines 34-38.

Thus, Nakayama et al. teach each and every limitation of Claims 20 and 22-25.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (US 4,052,513), of record, in view of Smith (US 5,874,074).

Kaplan teaches topical emulsions containing 0.5-15% of benzocaine solubilized in water and ester solubilizers of the instant invention. See Abstract; col. 1, lines 45-60. These solubilizers are used in concentration of 5-40% and impart desirable emollient properties to the compositions. See col. 1, lines 30-44, 56-60. The compositions of Kaplan may contain polyethylene glycol, polyethylene glycol esters having MW of 200-600, thickeners such as xanthan gum, viscosity control agents such as paraffin and other cosmetic materials. See col. 2. The reference does not teach copolymers and plant oils of the instant claims. However, Smith teaches using PVP/hexadecane copolymer (Ganex V-216) as well as other PVP copolymers as barrier polymers "to form an occlusive or semi-occlusive film-like barrier on the surface of the skin to prevent evaporative loss of moisture from the skin, and protect the skin against environmental irritants" in topical formulations. See col. 4, lines 5-28. Further, the compositions of Smith may contain 0.05-1.5% of floral oils as fragrances "for cosmetic purposes." See col. 6, lines 35-48. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compositions of Kaplan such

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that to employ PVP copolymers such as PVP/hexadecane copolymer. One having ordinary skill in the art would have been motivated to do this to obtain an occlusive or semi-occlusive film-like barrier on the surface of the skin to prevent evaporative loss of moisture from the skin, and protect the skin against environmental irritants as suggested by Smith. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compositions of Kaplan such that to employ floral oils. One having ordinary skill in the art would have been motivated to do this to obtain fragrancng effect as suggested by Smith.

Response to Arguments

6. Applicant's arguments with respect to the rejection(s) of claim(s) 1-19 and 21 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references.

7. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,187,815.

9. No claim is allowed at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary d. Kunz
GARY KUNZ
SUPERVISORY PATENT EXAMINER
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5/22/05

